

AMENDED IN ASSEMBLY APRIL 21, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1171

Introduced by Assembly Member Linder

February 27, 2015

An act to add Chapter 6.7 (commencing with Section 6970) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1171, as amended, Linder. Construction Manager/General Contractor method: regional transportation agencies: projects on expressways.

Existing law generally sets forth the requirements for the solicitation and evaluation of bids and the awarding of contracts by local agencies for public works contracts. Existing law authorizes the Department of Transportation, the Santa Clara County Valley Transportation Authority, and the San Diego Association of Governments to use the Construction Manager/General Contractor project delivery method for transit projects within their respective jurisdictions, subject to certain conditions and requirements.

This bill would authorize regional transportation agencies, as defined, to use the Construction Manager/General Contractor project delivery method, as specified, to design and construct certain ~~projects on~~ expressways that are not on the state highway system if the ~~projects~~ *expressways* are developed in accordance with an expenditure plan approved by voters as of January 1, 2014. ~~This bill would require, for any project interfacing with a state highway system, the regional~~

~~transportation agency and the Department of Transportation to enter into a cooperative agreement, as specified.~~ The bill would require specified information provided to a regional transportation agency to be verified under oath. By expanding the scope of the existing crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6.7 (commencing with Section 6970) is
2 added to Part 1 of Division 2 of the Public Contract Code, to read:

3
4 CHAPTER 6.7. CONSTRUCTION MANAGER/GENERAL
5 CONTRACTOR METHOD: REGIONAL PROJECTS ON EXPRESSWAYS
6

7 6970. (a) This chapter provides for an alternative procurement
8 procedure for certain transportation projects performed by a
9 regional transportation agency.

10 (b) The Construction Manager/General Contractor method
11 allows the regional transportation agency to engage a construction
12 manager during the design process to provide input on the design.
13 During the design phase, the construction manager provides advice
14 including, but not limited to, scheduling, pricing, and phasing to
15 assist the agency to design a more constructible project.

16 (c) The Legislature finds and declares that utilizing a
17 Construction Manager/General Contractor method requires a clear
18 understanding of the roles and responsibilities of each participant
19 in the process. The Legislature also finds and declares that
20 cost-effective benefits are achieved by shifting the liability and
21 risk for cost containment and project schedule to the construction
22 manager and by permitting the coherent phasing of projects into
23 discrete contract increments.

24 6971. For purposes of this chapter, the following definitions
25 apply:

1 (a) “Construction manager” means a partnership, corporation,
2 or other legal entity that is able to provide appropriately licensed
3 contracting and engineering services as needed pursuant to a
4 Construction Manager/General Contractor method contract.

5 (b) “Construction Manager/General Contractor method” means
6 a project delivery method in which a construction manager is
7 procured to provide preconstruction services during the design
8 phase of the project and construction services during the
9 construction phase of the project. The contract for construction
10 services may be entered into at the same time as the contract for
11 preconstruction services, or at a later time. The execution of the
12 design and the construction of the project may be in sequential
13 phases or concurrent phases.

14 ~~(c) “Interfacing with the state highway system” has the same~~
15 ~~definition as that term is defined in Section 6820.~~

16 ~~(d)~~

17 (c) “Preconstruction services” means advice during the design
18 phase, including, but not limited to, scheduling, pricing, and
19 phasing to assist the regional transportation agency to design a
20 more constructible project.

21 ~~(e)~~

22 (d) “Project” means the construction of an expressway that is
23 not on the state highway system, including work performed within
24 the state highway right-of-way or airspace or upon property and
25 airspace acquired for construction of a state highway system.

26 ~~(f)~~

27 (e) “Regional transportation agency” means an entity as
28 designated pursuant to paragraph (4) of subdivision (i) of Section
29 6820.

30 6972. (a) A regional transportation agency may utilize the
31 Construction Manager/General Contractor method of procurement
32 to design and construct projects if the projects are developed in
33 accordance with an expenditure plan approved by voters as of
34 January 1, 2014.

35 (b) The entity responsible for the maintenance of the local streets
36 and roads within the jurisdiction of the expressway shall be
37 responsible for the maintenance of the expressway.

38 ~~(c) For any project interfacing with the state highway system,~~
39 ~~both of the following shall apply:~~

1 ~~(1) The authorization in subdivision (a) shall not include the~~
2 ~~authority to perform construction inspection services, which shall~~
3 ~~be performed by the Department of Transportation consistent with~~
4 ~~Section 91.2 of the Streets and Highways Code.~~

5 ~~(2) The regional transportation authority and the Department~~
6 ~~of Transportation shall enter into a cooperative agreement reflecting~~
7 ~~the roles and responsibilities assigned by law. The cooperative~~
8 ~~agreement shall also include an issue resolution process with a~~
9 ~~primary objective to ensure the project stays on schedule and issues~~
10 ~~between parties are resolved in a timely manner.~~

11 6973. Construction Manager/General Contractor method
12 projects authorized pursuant to Section 6972 shall be governed by
13 the same process, procedures, and requirements as set forth in
14 Section 6703, subdivision (a) of Section 6704, and Sections 6705
15 to 6708, inclusive, except that any reference to “department” shall
16 mean the regional transportation agency.

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.